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October 5, 2006

**RECEIVED**  
OCT 10 2006

Illinois Commerce Commission  
RAIL SAFETY SECTION

*PROGRESS*

Michael Stead  
Rail Safety Program Administrator  
Director of Processing  
Transportation Bureau of the  
Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield, IL 62701

**Re: ICC Order #T05-005, dated April 5, 2006 700072**  
**Report concerning progress toward completing work**  
**described in the above order including status of Fairwind**  
**Boulevard, South of US Route 34**

Dear Mr. Stead:

On April 5, 2006, the Commission issued its ORDER in the above matter which included on page seven a six (6) month reporting requirement concerning progress towards completion of the project.

The City, at the request of the attorney for the BNSF Railroad on June 16, 2005, made written request of the BNSF's Staubach Company of Fort Worth, Texas (Company), for crossing easements for the above crossing including the roadway, sanitary sewers, potable water, and storm sewers. Included in the correspondence to the Company at the request of the Company were various documents. On March 10, 2006, following a telephone conference with a representative of the Company concerning the crossing easement, a copy of the proposed order to be entered by the ICC was transmitted to the Company indicating a probable entry date of April 5, 2006.

At the time of the entry of the order communications were had with Mark Leemon of BNSF Railroad concerning the City's need for a sanitary sewer line crossing the railroad right-of-way at Fairwind Boulevard in anticipation of constructing the roadway, all of which is contemplated in the Order. Mr. Leemon indicated that an agreement and easement would be expedited.

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To date, the City has received from BNSF Railroad a proposed maintenance agreement. The City has commented on its terms, requesting modification of certain provisions. The City has been told by BNSF Railroad representatives, that the easement agreement will be provided for City review only after City has agreed to the maintenance agreement.

The City plans to install sanitary sewer and water main utilities prior to construction of the roadway. On June 12, 2006, the City sent BNSF Railroad engineering details of the utilities for incorporation into an easement agreement. On August 29, 2006, the City submitted utility crossing permit applications to BNSF Railroad for the sanitary sewer and water main. On September 27, 2006, BNSF (through the Company) indicated that the permit for the sanitary sewer will not be released until the contract with City's contractor is finalized with materials specified. Two material options are permitted within the contract specifications and information for both options were submitted in an attempt to expedite Company's 6 to 8 week review cycle. On September 29, 2006, after advertising for proposals, the City received contractor bids for the utility installation. The City has ninety (90) days in which to award the contract. As of this date, the City has no utility permit or easement agreement in place from BNSF Railroad.

On September 25, 2006, the City Council authorized the Mayor to enter into an agreement with Smith Engineering Consultants, Inc. for the preparation of engineering plans and specifications for the Fairwind Boulevard roadway improvements, traffic signals, and the BNSF Railroad crossing. Geotechnical reports have been obtained for the intersection as well as pavement designs. The intersection design studies for the Fairwind Boulevard and U.S. Route 34 intersection have been approved by IDOT.

On July 17, 2006, the property owners south of US Route 34 presented concept plans to the City Council which included the southern extension of Fairwind Boulevard from US Route 34 to Gletty Road. The same concept plans were presented to the Plan Commission on August 8, 2006.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "BZ Paul", with a long horizontal flourish extending to the right.

Bernard Z. Paul  
City Attorney  
City of Sandwich

BZP/msp

cc: Tom Thomas, Mayor  
Tom Horak, City Engineer